

Rights-Based Approaches to Trade

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I. INTRODUCTION

Oxfam's core mission has always been to address the issues of poverty and social injustice. From our earliest years, we have sought to go beyond providing people with seeds and tools to addressing systemic causes of poverty.

Over the past several years, we have increasingly been defining ourselves as a rights-based organization. Our approach is anchored in a commitment to securing human rights with a particular bias toward social and economic rights. In short, we believe that poverty is a consequence of the systemic exclusion of distinct social groups from the rights, resources and opportunities to achieve their fullest potential.

Social exclusion, structural barriers and similar terminology sound very exciting and seductive. But we believe that this is not simply a matter of changing vocabulary. Adopting this approach has changed the way we work and the problems that we work on.

The following sections explain why Oxfam decided to pursue a rights-based approach, how we implement this approach and the challenges inherent in the approach. The final section will describe

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the link between our rights-based approach and our work on international trade.

II. A BREAK FROM PAST MODELS

At Oxfam, our epiphany began with trying to understand the history of our field. The traditional development literature is dominated by efforts to identify the crucial missing goods, services or pieces of knowledge (e.g., seeds, roads, family-planning education) that poor people need. These are followed by debates about which delivery mechanisms (the state, the market, the private sector) can most efficiently deliver these absent inputs. In this “welfare” paradigm, poverty is defined as the absence of public goods, and the solution is to figure out just what is missing and how to get it to the right places at the right time. Providing this type of assistance is deemed a noble act; it is an act of charity.

Experience of the past 50 years has shown, however, that development assistance efforts that were shaped within this “welfare model” are not enough. While we can show some real achievements, almost two billion people still live in poverty and the gap between rich and poor continues to grow. This is not for lack of many, many smart people working very, very hard to solve the problem.

In our analysis, this approach failed because it ignores social relations and other structural causes that reproduce poverty. What are those systemic obstacles that are standing in the way of people’s ability to access opportunity and improve their own lives? From the very outset, the rights-based approach centers on structural barriers that impede communities from having rights, capabilities and the capacity to choose.

Viewed in this fashion, development is about assisting poor communities in overcoming obstacles, rather than about the endless pursuit of grant aid for social goods. It assumes that people have dignity, aspirations and ambition and that their initiative is being blocked and frustrated by persistent systemic challenges such as apartheid, biased lending policies and non-functioning state social service delivery systems. It assumes that they are the most likely to know what institution-

al obstacles are thwarting their aspirations and are capable of being actors in defining the best approaches for overcoming such obstacles. It is anchored in the reality of local context and the analysis of the structural barriers to opportunity particular to that place and time.

III. AN ANCHOR IN HUMAN RIGHTS

So how is a rights-based approach different? First, it begins by defining poverty as social exclusion. Instead of focusing on creating an inventory of public goods or services that must be provided and then seeking to fill the deficit via foreign aid, the rights-based approach focuses on trying to identify the critical exclusionary mechanisms. Our starting point in confronting poverty is to identify the social, economic or political barriers that prevent people from availing opportunities to lift themselves out of poverty. These structural barriers can be of many different sorts—apartheid, lending policies, armed conflicts, trade rules, for example.

The core characteristics and strengths of the rights-based approach can be summarized as follows:

- This approach is based on the belief that human beings' inherent *dignity* entitles them to a core set of rights that cannot be given up or taken away.
- This approach provides a normative framework of obligations that has legal power to render governments accountable. (See speech by Mary Robinson at the World Summit in Johannesburg, August 28, 2002; also see her contribution to this volume.)
- This approach places human rights law at the center of development practice and provides the framework and content for mounting ethical challenges to conventional wisdom and understanding about development practice and human security.
- This approach may or may not use legal strategies or language, but is *grounded in and gains legitimacy from the rights enshrined in international and national law* (e.g., Universal Declaration of

Human Rights, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights).

- This approach presumes to *empower communities* and individuals to *know and claim their rights*.
- This approach identifies those responsible for *respecting, protecting* and *fulfilling* human rights and holds them accountable for their responsibilities. Traditionally, respect and protection of human rights were the domain of human rights organizations, which focused on civil and political rights, while fulfillment was the domain of development organizations, which focused on economic, social and cultural rights. The rights-based approach aims at breaking these artificial cleavages and reuniting the core elements of the UN Charter.
- This approach recognizes the multilevel nature of rights violations and obligations and the need to address them systematically and strategically. In other words, violations and obligations exist at the local, national, regional and global level. At the same time, violations of civil, political, economic, social and cultural rights are often intertwined.

IV. PUTTING THE THEORY INTO PRACTICE

After accepting that a rights-based approach was a compelling way to think about development programming, Oxfam faced daunting questions about how to apply it in ways that make it useful conceptually, strategically and tactically. The organization had to rethink its design of program planning and the staffing requirements for implementing new types of activities.

As the first step in our new approach to program planning, Oxfam asks: Which rights are being violated? How are the poor excluded? What is most strategic? Guiding this work are five aims that Oxfam seeks to achieve:

- the right to sustainable livelihoods and secure employment, e.g., access to inputs, credit, markets, resources, fair wage;

- the right to basic social services (health and education), e.g., access to affordable medicines;
- the right to life and security;
- the right to be heard;
- the right to an identity (gender and culture).

The next steps in program design are to:

- identify the duty-bearers or advocacy targets (often the state, but increasingly corporations and international institutions);
- identify the points of entry for national civil society (what is the advocacy strategy; who are the allies and stakeholders);
- identify the needs of national civil society (e.g., grassroots mobilization, alliance building, research, access to media, access to advocacy targets);
- identify the best ways in which a support organization like Oxfam can meet those needs (e.g., grants, training, creation of networking opportunities, campaigning in the U.S., supporting or complementing national campaigns).

V. THE CHALLENGES OF IMPLEMENTING THE RIGHTS-BASED APPROACH

Complex issues of theory and practice arise in efforts to apply the rights-based approach. The first of these is the historical favoritism of civil and political rights in the traditional human rights field. This has created a hierarchy of rights which makes it difficult for organizations focused on economic, social and cultural issues, or even development organizations working on human rights, to gain legitimacy within the human rights sector. In looking at these questions in terms of the human experience, however, we can ask whether there is a hierarchy between the right to food and the right to life. Are these two categories of rights really dissociable?

A second issue is defining the content of rights. Human rights in general—and economic, social, and cultural rights in particular—have been historically difficult to define because some of the defining requires setting standards that are assumed to be context specific. This,

however, has not prevented the UN Committee on Economic Social and Cultural Rights, with participation from civil society and NGO groups, from defining the content of rights. The right to an adequate standard of living, for example, contains certain specific elements such as food, which in turn contains specific elements such as availability and adequacy.

A third issue is the nature of obligation that is incurred in the human rights regime. Entitlement, especially on American ears, is a dirty word. As a result, the reaction toward economic, social and cultural rights is often a negative one, as people understand entitlements to mean that governments will pull out the silver platter and feed, dress and house everyone.

A fourth issue is the extent to which human rights are universal or relative to a particular culture or context. This raises complicated questions for a development organization. What should we do when different rights clash (e.g., universal principles versus indigenous principles on gender rights and participation)? How should we deal with divergences between universal norms and local practice?

A fifth issue is that the enforcement mechanisms for economic and social rights are not as widely known as those for civil and political rights, nor are they as widely used. There is a widespread belief that economic, social and cultural rights are not justiciable. These rights will become more justiciable when more groups and NGOs make use of the laws and administrative systems that are in place, however imperfect they might be. More relevant still is the fact that enforcement of economic, social and cultural rights does not have to happen through court systems. NGOs can work with state officials and empower them, which may lead to a more collaborative relationship for the benefit of communities as well as the state.

A sixth issue is the relative responsibilities of states and non-state actors. Important questions here are: (a) given that under international law states are the primary duty-bearers, how do we interpret the duty of the international community to support individual states? And (b) given that under international law states are the primary duty-bearers, how do we interpret corporate social responsibility?

There are two views about this second issue. The traditional perspective is a narrow view: Corporations are obliged to respect the rights of their employees. A newer, broader view holds that corporations are obliged to protect the rights of workers throughout their supply chains.

A final issue is how to operate in countries with no political space for human rights. One strategy that has worked has been to try to build space from within the international community and apply pressure as circumstances allow. This approach has been somewhat successful in drawing attention to issues such as child labor in some Asian nations.

VI. RIGHTS AND TRADE

So how did Oxfam get from accepting that a rights-based approach is a compelling way to think about development programming to a global campaign to make trade fair? The answer is that it took a couple of steps.

In the early 1990s, we realized that many exclusionary barriers are found not at the local level where we have traditionally worked, but rather, at the national or global level. Our first major global campaign—carried out by all Oxfam affiliates in North America, Europe and East Asia—focused on education. Our goal was to build global support for achieving the UN goals of putting all children in school by 2015. We linked this initiative to the broader Jubilee Movement asking for debt relief. Our rationale for taking forward such a global campaign was the recognition that much of international development work had become reduced to creating islands of progress in a sea of misery and injustice.

As our partner organizations in the South would consistently demonstrate to us, their governments were collapsing under mountains of debt, and were unable to provide even the most basic social services of basic education and health to their populations. The Jubilee campaign achieved a partial success, forcing the G7—the club of the seven wealthiest countries—to adopt a debt-relief program that, while not the perfect solution, has acknowledged the injustice of the debt and set in motion a process for relieving it.

As Oxfam continued to press for a global initiative on education, a Global Movement for Social Justice was born on the streets of Seattle. Suddenly, the contradictions and hypocrisies of the global trading system were on display for the whole world to see. In an effort to build on the momentum of this public debate, Oxfam made a decision to join that movement and launch a global campaign on trade. It was our belief that, along with impacts of debt, international trade rules represent a major systemic barrier on a global level to the alleviation of poverty. It was our hope that we could play a modest role in bringing the voices of our southern partner organizations to the decision-making fora where the rules of this global trading system are drawn up and negotiated.

In this age of global systems of production, international trade directly affects millions of poor people. From Vietnamese rice growers to textile workers of Mauritius, from Ugandan produce growers to workers of the Indian software industry, millions of poor people draw their livelihoods either directly or indirectly from international trade. In most cases, eliminating such trade links would not help them. Despite appalling working conditions and extremely low wages, even our partners in the garment industry of Bangladesh reject the idea of withdrawing from export markets, for they understand very clearly that their alternatives in their villages may be bleaker still. So Oxfam determined for itself that trade can be good for the poor.

But that does not mean that we should turn a blind eye to grossly imbalanced trade relations and appalling working conditions and enthusiastically celebrate the virtues of free trade and globalization. Rather, it is Oxfam's contention that trade does offer opportunities for poor people to earn higher incomes than they otherwise would, but that this promise is being squandered. The rules governing the world trading system are rigged in favor of the richest nations and against the poorest. And until the double standards, gross inequities and market distortions that flow from these rigged rules are addressed, we will never have a level playing field, and the potential of trade will not be fulfilled.

Oxfam has therefore embarked on an ambitious advocacy campaign that seeks to highlight those trade rules that are most hurtful to the poor. And rather than simply condemn current practice, Oxfam proposes alternatives that might serve as the basis of a more equitable trading regime. You can find any information about these campaigns and all of our trade work at www.maketradefair.com.

VII. CONCLUSION

At Oxfam we have made the transition to a rights-based approach because we believe in the first instance:

- that traditional approaches to development have been failing;
- that we have been faking it in terms of resource commitments;
- that the conventional wisdom of the Washington Consensus and free trade is morally bankrupt and a misrepresentation of social reality as we know it on the ground.

By contrast, we feel that the rights-based approach:

- is morally compelling;
- carries with it a sense of urgency;
- assumes that citizens have a role to play in defining their destiny;
- assumes that states have a role to play in being responsive to their citizens;
- is honest about the politics of the development process;
- raises serious questions about the viability of national social contracts and the shortcomings of global governance approaches (e.g., the WTO) in guaranteeing rights;
- is unifying of civil society movements around the world;
- creates real challenges for both state and non-state actors.

For Oxfam, this is not a passing fad. It is a strong philosophical position that we are translating into action and that will mark our organization for decades to come. And we hope that it will shape the broader development discourse for decades to come.

We deeply believe that he who defines the terms of the debate, defines the direction the debate will take. For too long, we have allowed a handful of institutions dominated by narrow self-interest to define the debate on behalf of the poor. We need to take the moral high ground back from the high priests of free market economics and put people back into the center of the discussion about social justice. Our belief is that the rights discourse and the rights-based approach will create the social power and sharpness of analysis to enable us to do that.